

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
MEMPHIS DIVISION**

IN RE REGIONS MORGAN KEEGAN
SECURITIES, DERIVATIVE and ERISA
LITIGATION

This Document Relates to:

*In re Regions Morgan Keegan Closed-End
Fund Litigation*

No. 2:07-cv-02830-SHM-dkv

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) Case No: 2:09-md-2009-SHM
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**MEMORANDUM OF LAW IN SUPPORT OF CARTER ANTHONY'S MOTION TO
DISMISS PLAINTIFFS' CONSOLIDATED AMENDED CLASS ACTION COMPLAINT**

PURSLEY LOWERY MEEKS LLP

R. Hal Meeks, Jr.
hmeeks@plmlp.com
Robin A. Besaw
rbesaw@plmlp.com
260 Peachtree Street, NW
Suite 2000
Atlanta, GA 30303
(404) 880-7180
(404) 880-7199 – fax

Attorneys for Defendant Carter E. Anthony

Defendant Carter Anthony (“Anthony”) respectfully submits this memorandum in support of his Motion to Dismiss Plaintiffs’ Consolidated Amended Class Action Complaint (“CAC”).¹

Plaintiffs allege they are investors in four closed-end investment funds, formerly known as RMK High Income Fund, Inc. (“RMH Fund”), RMK Strategic Income Fund, Inc. (“RSF Fund”), RMK Advantage Fund, Inc. (“RMA Fund”), and RMK Multi-Sector High Income Fund, Inc. (“RHY Fund”) (collectively, the “Funds”). Plaintiffs filed this action seeking to recover losses concerning their investment in the Funds in the wake of the mid-2007 global credit crisis.

Plaintiffs have filed suit against Defendant Anthony (along with Defendants James C. Kelsoe, Jr., Joseph T. Weller and Brian B. Sullivan collectively referred to in the CAC as the “Officer Defendants”), under § 10(b) of the Securities Exchange Act of 1934 (“1934 Act”) and Rule 10b-5, alleging that Defendant Anthony and the other Officer Defendants committed securities fraud by virtue of alleged misrepresentations and omissions in the Funds’ public filings. Plaintiffs have also brought “control person” claims against Defendant Anthony and the other Officer Defendants under § 20(a) of the 1934 Act.

Plaintiffs’ claims fail as a matter of law for multiple reasons, which are set forth fully in the motion to dismiss and supporting memorandum of law of Morgan Keegan & Company, Inc., Morgan Asset Management, Inc., and MK Holding, Inc. which arguments are incorporated as if fully set forth herein. Those grounds for dismissal include the fact that Plaintiffs’ claims are time-barred, Plaintiffs’ allegations, at most, state claims for mismanagement and not securities

¹ Defendant Anthony incorporates and adopts the statement of facts and arguments of Morgan Keegan & Company, Inc., Morgan Asset Management, Inc., MK Holding, Inc., and Regions Financial Corporation in their respective motions to dismiss and memoranda of law.

fraud, and Plaintiffs fail to plead facts showing actionable misrepresentations and omissions or loss causation.

In addition to the foregoing, Plaintiffs' § 10(b) claim fails as a matter of law for reasons that pertain more directly to Defendant Anthony and the other Officer Defendants. Plaintiffs have failed to plead any facts demonstrating that Defendant Anthony engaged in knowing or intentional misconduct or otherwise acted with the requisite scienter. This failure requires dismissal of Plaintiffs' § 10(b) claim.

Plaintiffs likewise have failed to plead facts stating a claim for control person liability against Defendant Anthony under § 20(a). Plaintiffs have failed to plead a primary violation of either the 1933 Act or the 1934 Act and otherwise have failed to plead facts showing that Defendant Anthony exercised the requisite level of control over the primary violators needed to state a claim for control person liability. Accordingly, these claims fail as a matter of law.

ARGUMENT

Plaintiff incorporates and adopts as if fully set forth herein the arguments of the other Officer Defendants (Defendants Sullivan, Weller and Kelsoe) in their memorandum of law relating to Plaintiffs' claims arising under § 10(b) and Rule 10b-5, and the "control person" claims brought under § 20(a).

CONCLUSION

Defendant Anthony respectfully requests that the Court dismiss the CAC.

Respectfully submitted this 13th day of April, 2011.

PURSLEY LOWERY MEEKS LLP

/s/ ROBIN A. BESAW

260 Peachtree Street, NW
Suite 2000
Atlanta, GA 30303
(404) 880-7180
(404) 880-7199 – fax

R. Hal Meeks, Jr.
Georgia Bar No. 500825
hmeeks@plmlp.com
Robin A. Besaw
Georgia Bar No. 223540
rbesaw@plmlp.com
Attorneys for Defendant Carter E. Anthony
Admitted pro hac vice

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the within and foregoing **Memorandum in Support of Carter Anthony's Motion to Dismiss Plaintiff's Consolidated Amended Class Action Complaint** and with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

BRANSTETTER STRANCH & JENNINGS, PLLC

J. Gerard Stranch, IV, Esq.
227 Second Avenue, North
Nashville, TN 37201

KIRKLAND & ELLIS LLP

Timothy A. Duffy, Esq.
Emily Nicklin, Esq.
Kristopher S. Ritter, Esq.
300 North LaSalle
Chicago, IL 60654

LABATON SUCHAROW LLP

Joel H. Bernstein, Esq.
Louis Gottlieb, Esq.
David J. Goldsmith, Esq.
Stefanie J. Sundel, Esq.
Michael Woolley, Esq.
140 Broadway
New York, NY 10005

BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ, PC

Leo Maurice Bearman, Jr., Esq.
Eugene J. Podesta, Jr., Esq.
165 Madison Avenue, 19th Floor
First Tennessee Building
Memphis, TN 38103

PEARSON SIMON WARSHAW & PENNY, LLP

George S. Trevor, Esq.
44 Montgomery Street
Suite 2450
San Francisco, CA 94104

K&L GATES LLP

Jeffrey B. Maletta, Esq.
Nicholas G. Terris, Esq.
Nicole A. Baker, Esq.
1601 K Street, NW
Washington, DC 20006-1600

MAYNARD COOPER & GALE, PC

Peter S. Fruin, Esq.
2400 Regions Harbert Plaza
1901 Sixth Avenue North
Birmingham, AL 35203

SUTHERLAND ASBILL & BRENNAN LLP

Steven Lawrence Polk, Esq.
999 Peachtree Street, NE
Atlanta, GA 30309

PAUL HASTINGS JANOFSKY & WALKER, LLP

Kevin C. Logue, Esq.
Michael M. Bruso, Esq.
75 East 55th Street

SULLIVAN & CROMWELL, LLP

David B. Tulchin, Esq.
David E. Swarts, Esq.
Margaret E. Bartlett, Esq.
125 Broad Street

New York, NY 10022

BASS BERRY & SIMS PLC

Michael L. Dagley, Esq.
W. Brantley Phillips, Esq.
Matthew M. Curley, Esq.
150 Third Avenue, South
Suite 2800
Nashville, TN 37201

**CABANISS, JOHNSTON, GARDNER
DUMAS & O'NEAL LLP**

Crawford S. McGivaren, Esq.
R. Carlton Smyly, Esq.
Suite 700 Park Place Tower
2001 Park Place North
Birmingham, AL 35203

This 13th day of April, 2011.

New York, NY 10004

BASS BERRY & SIMS PLC

Shepherd D. Tate, Esq.
Michael A. Brady, Esq.
100 Peabody Place
Suite 900
Memphis, TN 38103

PURSLEY LOWERY MEEKS LLP

/s/ ROBIN A. BESAW

Robin A. Besaw
Georgia Bar No. 223540
rbesaw@plmlp.com
Attorneys for Carter E. Anthony
Admitted pro hac vice

260 Peachtree Street, NW
Suite 2000
Atlanta, GA 30303
(404) 880-7180
(404) 880-7199 – fax